

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

WELLS FARGO BANK, N.A.,

Plaintiff,

:

Case No. 3:07-cv-449

-vs-

Magistrate Judge Michael R. Merz

:

LaSALLE BANK NATIONAL
ASSOCIATION,

Defendant.

ORDER FINDING DEFENDANT’S MOTION IN LIMINE TO BE STALE

Upon review of LaSalle Bank’s Motion in Limine (Doc. No. 119), the Court finds that it has become stale because of the events in the case which have transpired since it was filed on February 2, 2009. Since that time, the Court has continued the trial twice, decided the parties’ various summary judgment motions, conducted the final pretrial conference and issued a final pretrial order, and begun the review of the deposition designations. The Motion in question was filed and fully briefed before any of these things happened, in anticipation of an April trial date. In reading the briefing on the Motion, the Court finds many references to events which “may” happen. At this stage of the litigation, the parties’ positions on what evidence they will offer, at least by way of deposition testimony and exhibits, is much more concrete than it was six months ago.

Rather than having the Court attempt to cross-reference the Motion and Plaintiff’s opposition to it with subsequent events and guess what portions may still be relevant, it is hereby ORDERED that the Motion be denied without prejudice to its renewal, not later than September 11, 2009, with those items which still require a ruling. Any re-filed motion will be subject to the expedited briefing

schedule the Court is also entering today.

September 4, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge